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RULE PROPOSAL**

HEALTH AND SENIOR SERVICE

DIVISION OF SENIOR BENEFITS AND UTILIZATION MANAGEMENT

HEARING AID ASSISTANCE TO THE AGED AND DISABLED

Proposed Readoption: N.J.A.C. 8:83B

Authorized By: Clifton R. Lacy, M.D., Commissioner, Department of Health and Senior Services.

Authority: N.J.S.A. 30:4D-20 through 24.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2003-190.

Submit written comments by July 18, 2003 to:

Kathleen Mason
Assistant Commissioner
Division of Senior Benefits and Utilization Management
Department of Health and Senior Services
PO Box 715
Trenton, NJ 08625-0715
Fax: (609) 631-4667

A copy of the proposal is available for review at all offices of the Area Agencies on Aging, which are situated in all 21 counties.

The agency proposal follows:

Summary

As the Department of Health and Senior Services has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5. Authority for the Hearing Aid Assistance to the Aged and Disabled (HAAAD) program was transferred from the Department of Human Services (DHS) to the Department of Health and Senior Services (DHSS) pursuant to Executive Reorganization Plan No. 001-1996. Accordingly, the rules establishing the criteria for this program (referenced herein as the HAAAD Eligibility Manual) were recodified from N.J.A.C. 10:69 to N.J.A.C. 8:83B administratively on November 3, 1997 (see 29 N.J.R. 4679(a)). As a practical matter, modification of the rules had no effect on the date upon which they were scheduled to sunset pursuant to Executive Order No. 66(1978). Thus, N.J.A.C. 8:83B was scheduled to expire on May 14, 1998. The Department of Health and Senior Services reviewed the rules and determined them to be necessary, adequate, reasonable, proper and responsive for the purpose for which they were originally promulgated. The HAAAD Eligibility Manual was readopted as R.1998 d.227 and became effective April 13, 1998. The HAAAD Eligibility Manual was promulgated to set forth the basic policies and procedures relating to providing payment of \$100.00 in a calendar year in which a

hearing aid is purchased to offset the cost of the hearing aid for individuals who meet the age or disability, income and residency requirements of the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program. Pursuant to N.J.S.A. 52:14B-5.1c, this chapter shall expire on October 10, 2003.

Subchapter 1 explains the purpose of the HAAAD program and lists the laws on which it is based. The purpose of the program is to assist eligible individuals with the purchase of medically necessary hearing aids.

Subchapter 2 defines several key words used in the HAAAD Eligibility Manual. The definitions include "annual income," "applicant," "beneficiary," "calendar year" and "resident." As an example, the definitions indicate that a person who applies for the HAAAD benefit is an applicant while a person who is eligible for the benefit is a beneficiary. The person must be a resident of New Jersey by being legally domiciled in the State for a period of 30 days immediately prior to application. Also, the calendar year is always the period from January 1 to December 31. The term "annual income" means all income from whatever source actually received or anticipated.

Subchapter 3 describes the administrative structure within the Department of Health and Senior Services (DHSS) that implements policies, processes applications, makes eligibility determinations, and insures payment is made to a beneficiary.

Subchapter 4 explains and details the HAAAD application process. It also defines who may be an authorized agent for the applicant and the responsibilities of the applicant in the application process. The applicant must complete an application listing all sources of income, and include a copy of the physician's prescription and a receipt for the recent purchase of a hearing aid.

Subchapter 5 describes the eligibility requirements, the eligibility period, the signature authorization and certification, recoveries and appeal process. The income standards are discussed in a subsequent paragraph. An applicant must certify that all information is accurate. The HAAAD program will make payment to the beneficiary of \$100.00 once in a calendar year. If the beneficiary has partial coverage through another third party insurer, the HAAAD program will seek recovery. Applicants who are covered by Title (XIX) Medicaid are ineligible for HAAAD, because the Medicaid program would enable the person to receive this item through the Medicaid program at no charge to the individual. In the event that an applicant is determined ineligible for HAAAD, he or she may request a hearing. If the hearing request presents a contested case, it will be forwarded to the Office of Administrative Law (OAL) for hearing pursuant to N.J.A.C. 1:1. The HAAAD program will deny payment to the representative of the estate of a deceased beneficiary. This provision appears at N.J.A.C. 8:83B-5.6(b).

This subchapter contains a provision for an annual increase in the HAAAD eligibility limit by the same percentage as the Social Security benefit cost-of-living increase pursuant to N.J.S.A. 30:4D-21(b), at N.J.A.C. 8:83B- 5.1(d). Pursuant to this provision, the income limits for 2003 are \$20,016 for single individuals or \$24,542 for married couples. See 35 N.J.R. 1115(a). The notice of these eligibility limits for 2003 are published in the New Jersey Register separately as a public notice as well as in a UNISYS newsletter distributed to all pharmacies with a posting notice to the public and all 21 County Area Offices on Aging. Because the Division has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking requirement of N.J.A.C. 1:30-3.3(a)5.

Social Impact

The beneficiaries who are affected by the HAAAD program are aged and disabled New Jersey residents with income within the income guidelines for the Pharmaceutical Assistance to the Aged and Disabled Program (PAAD), and who need help in purchasing a hearing aid. There continues to be an indirect impact on providers, such as prescribers or hearing aid dealers, since they have to provide the HAAAD applicant with supporting documentation as to medical necessity or proof-of-purchase.

Economic Impact

There are approximately 2,500 beneficiaries who receive the HAAAD payment of \$100.00 in a calendar year, totalling an expenditure of \$250,000. A beneficiary is entitled to only one payment in a calendar year. A reimbursement check is sent directly to the beneficiary. There is no payment made to providers, such as physicians, audiologists, or hearing aid dealers.

Federal Standards Statement

The program is fully State-funded. The program operates under the aegis of the Department of Health and Senior Services, through the Division of Senior Benefits and Utilization Management. Support staff of the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program oversee the administration, including the processing of applications and insuring payment is made. Therefore, a Federal standards statement is not applicable with this proposal due to the fact that the HAAAD program is strictly State-funded and administered by State agencies.

Jobs Impact

Persons eligible for the HAAAD program are elderly or disabled individuals who are generally not employable. The HAAAD program does not make payment to, or regulate, physicians, audiologists, or hearing aid dispensers. Therefore, the rules proposed for readoption have no impact on jobs to be gained or lost within the State of New Jersey.

Agriculture Industry Impact

The rules proposed for readoption will have no impact on the agriculture industry.

Regulatory Flexibility Statement

The rules proposed for readoption do not impact on small businesses as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules regulate beneficiaries of the HAAAD program and the government agency which administers the HAAAD program, neither of which is a small business. Consequently, a regulatory flexibility analysis is unnecessary.

Smart Growth Impact

The rules proposed for readoption would have no impact on the achievement of smart growth or implementation of the State Development and Redevelopment Plan.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 8:83B.
35 N.J.R. 2144 (a)